

## CCRB INVESTIGATIVE RECOMMENDATION

|  |   |                           |  |   |                                 |
|--|---|---------------------------|--|---|---------------------------------|
| Investigator:<br>Hannah Sampson                  | Team:<br>Squad #08                                  | CCRB Case #:<br>201805961 | <input checked="" type="checkbox"/> Force              | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|  |   |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Friday, 07/13/2018 8:21 AM   | Location of Incident:<br>94th Precinct stationhouse | 18 Mo. SOL<br>1/13/2020   | Precinct:<br>94  |   |                                 |
| Date/Time CV Reported<br>Fri, 07/13/2018 9:00 AM | CV Reported At:<br>IAB                              | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Mon, 07/23/2018 10:58 AM |   |                                 |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |

| Witness(es) | Home Address |
|-------------|--------------|
|             |              |

| Subject Officer(s)         | Shield | TaxID  | Command |
|----------------------------|--------|--------|---------|
| 1. POM Jonathan Altamirano | 16742  | 951499 | 094 PCT |

| Witness Officer(s)  | Shield No | Tax No | Cmd Name |
|---------------------|-----------|--------|----------|
| 1. SGT Roxana Hogan | 00651     | 947922 | 094 PCT  |
| 2. POM Gilbert Sosa | 25330     | 963288 | 094 PCT  |

| Officer(s)                  | Allegation  | Investigator Recommendation |
|-----------------------------|---|-----------------------------|
| A . POM Jonathan Altamirano | Discourtesy: Police Officer Jonathan Altamirano spoke discourteously to § 87(2)(b).   | A . § 87(2)(g)              |
| B . POM Jonathan Altamirano | Force: Police Officer Jonathan Altamirano hit § 87(2)(b) against an inanimate object.   | B . § 87(2)(g)              |
| C . POM Jonathan Altamirano | Abuse of Authority: Police Officer Jonathan Altamirano threatened § 87(2)(b) with the use of force.   | C . § 87(2)(g)              |
| § 87(4-b) § 87(2)(g)        |   |                             |
| E . POM Jonathan Altamirano | Other: There is evidence suggesting Police Officer Jonathan Altamirano provided a false official statement in violation of Patrol Guide Procedure 203-08. | E . § 87(2)(g)              |

### Case Summary

On July 13, 2018, Captain Tyrice Miller, formerly of the 94<sup>th</sup> Precinct, filed this complaint with IAB on behalf of § 87(2)(b) generating original log number 18-27251. The CCRB received this case on July 23, 2018.

On July 13, 2018, at approximately 8:21 a.m., PO Jonathan Altamirano of the 94<sup>th</sup> Precinct handcuffed § 87(2)(b) inside the 94<sup>th</sup> Precinct Stationhouse in Brooklyn to transport him to Brooklyn Central Booking. § 87(2)(b) complained that his handcuffs were on incorrectly, to which PO Altamirano allegedly responded, “Fuck you” and/or, “I don’t give a fuck” (**Allegation A: Discourtesy**, § 87(2)(g)). PO Altamirano then allegedly referred to § 87(2)(b) as a “drug addict” and a “low-life” (**Allegation A continued**). When § 87(2)(b) refused to walk out of the holding cell area, PO Altamirano pulled § 87(2)(b) by the arm, causing § 87(2)(b)’s face and chest to hit the wall (**Allegation B: Force**, § 87(2)(g)). Once in front of the desk, PO Altamirano allegedly said that he would “beat § 87(2)(b) up” and that he would “fuck § 87(2)(b) up” (**Allegation C: Abuse of Authority**, § 87(2)(g); **Allegation A continued**). § 87(4-b) § 87(2)(g)

§ 87(2)(b) The CCRB found evidence suggesting that PO Altamirano provided a false official statement when he prepared a TRI Report noting that § 87(2)(b) “intentionally struck his head against cell wall inside cell area and alleged reporting officer did it” [BR 01] (**Allegation E: Other Misconduct**), § 87(2)(g)

The CCRB obtained stationhouse footage from this incident that captures the force alleged. The relevant clips are embedded below and are linked to Board Reviews 02 and 03.

### Findings and Recommendations

#### **Allegation A – Discourtesy: Police Officer Jonathan Altamirano spoke discourteously to**

§ 87(2)(b)

#### **Allegation C – Abuse of Authority: Police Officer Jonathan Altamirano threatened § 87(2)(b) with the use of force.**

It is undisputed that § 87(2)(b) complained to PO Altamirano about the positioning of his handcuffs. It remains disputed whether PO Altamirano spoke discourteously to § 87(2)(b) or if he threatened § 87(2)(b) with the use of force.

§ 87(2)(b) was interviewed in the field on September 17, 2018 [BR 04]. He stated that he told PO Altamirano that his handcuffs were on wrong and that he could not put his arms a certain way due to a pre-existing shoulder injury. § 87(2)(b)’s hands were positioned in a “praying style,” described as his palms being flat against one another. When § 87(2)(b) told PO Altamirano about his shoulder injury, PO Altamirano responded, “Fuck you” and/or, “I don’t give a fuck.” PO Altamirano also called § 87(2)(b) a “drug addict” and a “low-life.” When PO Altamirano brought § 87(2)(b) in front of the desk, he said that he would “beat § 87(2)(b) up” and that he would “fuck § 87(2)(b) up.” § 87(2)(b) did not recall what else was being said at the time of PO Altamirano’s comments.

The investigation determined that another prisoner, § 87(2)(b) was in the holding cell area when PO Altamirano allegedly spoke discourteously to § 87(2)(b). Numerous attempts were made to schedule her for a VTC interview while she was incarcerated at Rikers Island [BRs

05 through 09]. However, those attempts were unsuccessful and she was subsequently released from the facility. Additional contact attempts were made to obtain a statement from her after her release, but she could not be reached for a statement [BRs 10 through 25].

PO Gilbert Sosa, also of the 94<sup>th</sup> Precinct, was identified as a witness to this incident. He was interviewed at the CCRB on October 30, 2018 [BR 27]. PO Altamirano was interviewed at the CCRB on October 31, 2018 [BR 28]. PO Sosa and PO Altamirano were consistent that § 87(2)(b) § 87(2)(b) complained about the way he was handcuffed. PO Sosa did not recall if § 87(2)(b) § 87(2)(b) referenced any pre-existing injury and PO Altamirano denied that § 87(2)(b) § 87(2)(b) mentioned any such injury. PO Sosa stated that PO Altamirano responded to § 87(2)(b) § 87(2)(b)s complaints by explaining to him the Department’s policy on how to handcuff prisoners for transport. PO Altamirano did not recall if he explained why § 87(2)(b) § 87(2)(b) could not be handcuffed the way he requested but he denied that he stated, “Fuck you” or, “I don’t give a fuck” to § 87(2)(b) § 87(2)(b) at any point and denied referring to § 87(2)(b) § 87(2)(b) as a “drug addict” or a “low-life.” PO Sosa did not recall if he heard PO Altamirano make any of the statements alleged. PO Altamirano did not recall if he was in front of the desk with § 87(2)(b) § 87(2)(b) at any point and denied that he threatened to “beat” or “fuck” § 87(2)(b) § 87(2)(b) up. He further denied that he spoke to § 87(2)(b) § 87(2)(b) about engaging in any fighting behavior. PO Sosa did not recall if he saw PO Altamirano with § 87(2)(b) § 87(2)(b) in front of the desk at any point. He did not recall if he heard PO Altamirano state that he would “beat” or “fuck” § 87(2)(b) § 87(2)(b) up. PO Sosa added that he heard § 87(2)(b) § 87(2)(b) threaten to “fuck [PO Altamirano] up” if he saw him again after his release, but denied that PO Altamirano responded to his comment in any way.

In his statement with the CCRB, § 87(2)(b) § 87(2)(b) described a white female officer as being behind the desk at the time PO Altamirano allegedly threatened him with the use of force. As per the 94<sup>th</sup> Precinct Roll Call [BR 29], the investigation determined that Sgt. Roxanna Hogan was assigned as the Tour 1 Desk Officer and matched the description § 87(2)(b) § 87(2)(b) provided. Sgt. Hogan was interviewed at the CCRB on November 7, 2018 [BR 30]. She stated that the only officer she recalled seeing with § 87(2)(b) § 87(2)(b) in front of the desk was his arresting officer, PO Nicholas White, also of the 94<sup>th</sup> Precinct. As such, she denied that she heard PO Altamirano state that he would “beat” or “fuck” § 87(2)(b) § 87(2)(b) up. She also added that she completed her tour at 8:02 a.m. – approximately 20 minutes prior to when PO Altamirano removed § 87(2)(b) § 87(2)(b) removed the holding cells – and stated that she left the stationhouse immediately after completing her tour. § 87(2)(g) § 87(2)(g)

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§ 87(2)(g) § 87(2)(g)

**Allegation B – Force: Police Officer Jonathan Altamirano hit § 87(2)(b) § 87(2)(b) against an inanimate object.**

It is undisputed that § 87(2)(b) § 87(2)(b) refused to walk from the holding cell area on his own volition and that PO Altamirano pulled § 87(2)(b) § 87(2)(b) by the arm to remove him for transport, thus causing § 87(2)(b) § 87(2)(b)s face and chest to strike against a wall.

§ 87(2)(b) stated that he was seated on the ground when PO Altamirano instructed him to “Get up.” PO Altamirano then lifted § 87(2)(b) up by his handcuffs and “swung” him around, causing § 87(2)(b)’s face and chest to hit into the corner of a bathroom wall located one to three feet away. § 87(2)(b) denied that he offered PO Altamirano any resistance. § 87(2)(b) added that he briefly lost consciousness and sustained bruising to his right eye and bruising to his chest because of the encounter. § 87(2)(b) could not recall if EMS responded to the stationhouse.

As discussed above, the investigation determined that § 87(2)(b) was a witness to this incident. However, she could not be reached for a statement.

PO Sosa initially stated that after § 87(2)(b) refused to move or walk out of the holding cells, PO Altamirano took ahold of § 87(2)(b)’s right elbow with two hands to force him to move. § 87(2)(b) again refused to move and pulled back, away from PO Altamirano. PO Sosa did not recall if PO Altamirano issued § 87(2)(b) any commands or instructions to walk or move prior to grabbing him by the arm, but that he told § 87(2)(b) to “come on” and told him that he needed to leave the cells. Within one to five minutes of PO Altamirano grabbing § 87(2)(b)’s arm, § 87(2)(b) got on one knee, turned his body, and then hit his face into the wall. PO Sosa did not recall if § 87(2)(b) got on his knee of his own volition, but stated that he turned his body of his own volition and then hit his own face into the wall. PO Altamirano was still holding § 87(2)(b) at the time but PO Sosa denied that PO Altamirano had any involvement in bringing § 87(2)(b) to the wall.

PO Altamirano stated that as he attempted to lead § 87(2)(b) from the holding cell area, § 87(2)(b) said he was not leaving/moving. At that time, PO Altamirano took ahold of § 87(2)(b)’s right bicep and tugged him a few times to lead him out. PO Altamirano did not recall exactly how many times he tugged on § 87(2)(b) to move him, but said it may have been between two and four times. PO Altamirano simultaneously said, “Let’s go” but § 87(2)(b) continued to say he was not leaving/moving, shook his head “no,” and then tensed up his body, making himself rigid. After a few failed attempts to move § 87(2)(b), PO Altamirano pulled § 87(2)(b) with more force to remove him from the holding cells for transport. As PO Altamirano pulled § 87(2)(b), § 87(2)(b) simultaneously “went soft” and let himself go limp without any warning. § 87(2)(b)’s body weight went towards PO Altamirano as he continued to pull § 87(2)(b) to escort him from the holding cell area. Because of their combined momentum, they “spun around” and the nearby wall broke § 87(2)(b)’s fall. Both PO Altamirano’s and § 87(2)(b)’s backs were to the wall before they spun around. However, PO Altamirano said that he was aware that the wall was immediately behind him because he is “always aware of his surroundings.” PO Altamirano estimated that the wall was approximately one foot behind them at the time. PO Altamirano denied that he intentionally struck § 87(2)(b) against the wall.

As noted above, footage from the 94<sup>th</sup> Precinct Stationhouse captures this portion of the incident [two angles embedded below and linked to BRs 02 and 03]. The footage shows PO Altamirano take ahold of § 87(2)(b)’s arm and shows that § 87(2)(b) pulls away from PO Altamirano and shakes his head “no” as PO Altamirano attempts to lead § 87(2)(b) from the holding cell area. When § 87(2)(b) refuses to walk from the cells, PO Altamirano pulls on him with more force, causing § 87(2)(b) to swing out and strike his face and chest against a nearby wall. PO Sosa and PO Altamirano were both shown this footage during their interviews with the CCRB. PO Sosa confirmed that the footage did not align with his recollection of the incident and agreed that PO Altamirano appeared to pull § 87(2)(b) with more force after § 87(2)(b) refused to exit the room on his own volition. PO Altamirano stated that the footage was consistent with his narrative.



094 Stationhouse 1.mp4



094 Stationhouse 2.mp4

As noted above, PO Altamirano prepared a TRI Report for this incident which notes that § 87(2)(b) “intentionally struck his head against cell wall inside cell area and alleged reporting officer did it.” When shown the TRI Report during his CCRB interview, PO Altamirano stated that this was possibly the second time he ever completed the form and said he mistakenly filled in the section that was supposed to be completed by his supervisor. He continued that he needed to briefly summarize the incident in that space so he wrote that § 87(2)(b) intentionally struck his head to reflect that § 87(2)(b) intentionally went limp as PO Altamirano attempted to pull him from the cells.

Captain Miller prepared an ISAR for this incident which notes that § 87(2)(b) became “very agitated and combative” and refused to be handcuffed and escorted to the vehicle for transport to Brooklyn Central Booking [BR 32]. The report further notes that at that time, PO Altamirano used the “minimum force” to escort and guide § 87(2)(b) from the holding cell, were § 87(2)(b) “inadvertently ran into the wall located by the entrance of the holding cell.” Captain Miller also interviewed § 87(2)(b) who stated that PO Altamirano became upset with him and intentionally swung him into the wall.

According to Patrol Guide Procedure 221-02, officers are to take necessary action to protect life and personal safety of all persons present, including subjects being placed into custody [BR 33].

§ 87(2)(g)

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

**Allegation E – Other Misconduct: There is evidence suggesting Police Officer Jonathan Altamirano provided a false official statement in violation of Patrol Guide Procedure 203-08.**

§ 87(2)(g)

Footage from the 94<sup>th</sup> Precinct Stationhouse shows that on July 13, 2018, at approximately 8:21 a.m., PO Altamirano attempted to remove § 87(2)(b) from the holding cell area. In doing so, PO Altamirano caused § 87(2)(b)'s face and chest to strike against a nearby wall of the stationhouse. In the TRI Report PO Altamirano prepared at 8:25 a.m. the same day, he reported that § 87(2)(b) “intentionally struck his head against cell wall” and that § 87(2)(b) then alleged that PO Altamirano was responsible. As noted above, PO Altamirano stated that he was unfamiliar with the report and explained that he wrote that § 87(2)(b) intentionally struck his head against the wall to reflect that § 87(2)(b) intentionally made his body limp as PO Altamirano attempted to escort him from the holding cell area.

Patrol Guide Procedure 203-08 states that an officer is prohibited from making a false official statement and that an officer found to have made such a statement will be subject to disciplinary action [BR 35]. The statement must be proven to have been made, material, and intentionally false.

§ 87(2)(g)

[REDACTED]

**Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to seven prior CCRB complaints and has been named as a victim in 10 allegations [BR 36]:
  - § 87(2)(b) [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- PO Altamirano has been a member of the service for six years and this is the first complaint to which he has been a subject.

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.

- As of November 7, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint [BR 37].

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Squad No.:     \_\_\_\_\_8\_\_\_\_\_

Investigator:     \_\_\_\_\_

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Squad Leader:     \_\_\_\_\_

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Reviewer:     \_\_\_\_\_

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